Supreme Court, U.S.
FILED

(1) 02 642 SEP - 9 2002

No._____ OFFICE OF THE CLERK

In The
SUPREME COURT OF THE UNITED STATES

_____=_____

CATHERINE M. STARR
Petitioner,

V.

CITY OF HATTIESBURG
ALVIN EATON
JEFFERSON B. STEWART
Respondent.

_____=_____

On Petition For Writ Of Certiorari
From The United States Court
Of Appeals For The Fifth Circuit

_____=_____

PETITION FOR WRIT OF CERTIORARI

_____=_____

Catherine M. Starr
121 Melwood Drive
Hattiesburg, Mississippi
39401
Tel.(601) 544-8316
Pro se Counsel of Record
For Petitioner

19 pp

QUESTIONS PRESENTED FOR REVIEW

I. Does the courts sole authority to dismiss a case "with or without prejudice" and/or to dismiss a case "as frivolous" violate on its face the "First Amendment"?

II. Did Judge Pickering and the Fifth Circuit Court of Appeals according to constitutional authority-First Amendment-and a Supreme Court dicision-City of Lakewood V. Plain Dealer Publishing Company-violate on its face the First Amendment-when they dismissed Starr's case "with prejudice" and "as frivolous"?

PARTIES

All parties appear in the caption. Petitioner will be referred to by her name, "Starr"; Respondent will be reffered to as "City of Hattiesburg" or "Hattiesburg".

TABLE OF CONTENTS

		Pages
1.	Questions presented for review...	i
2.	Parties.....	ii
3.	Table of Contents.....	iii
4.	Table of Authorities.....	iv
5.	Citations to Opinions.....	1
6.	Constitutional Provisions.....	2
7.	Statement of the Case.....3,4,5,6	
8.	Reasons for granting Writ.....	7
9.	On Petition for Re-hearing denied by the Fifth Circuit Court of Appeal.....APP.1	
10.	Judgement-Fifth Circuit Court of Appeals-Dismissed "as frivolous"APP.2	
11.	Judgement-United States District Court-Dismissed "with Prejudice"APP.3	
12.	Summary of Argument-in brief of the Fifth Circuit Court of Appeals..... APP.4,5	
13.	Argument-in brief of the Fifth Circuit Court of Appeals.. APP.5,6	

TABLE OF AUTHORITIES

Constitutional Authority

First Amendment to the United States Constitution.

14th Amendment-under the equal protection of the laws.

Cases

City of Lakewood V. Plain Dealer Publishing Company, 486 U.S.____: 100 L. Ed. 2d 771; 108 S. Ct. 2138 (1988).

Hicks V. Thomas (1987, Miss) 516 So 2d 1344, 6 USCCRS 2d 105.

Mississippi State Law

SS 63-23-3- "abandoned Motor vehicle as "defined" by the Mississippi Motor Vehicle Title Law.

Hattiesburg City Ordinance

Ordinance No. 1784

CITATION TO OPINION

The Fifth Circuit Court of Appeals denied a rehearing on July 31, 2002.

The United States Fifth Circuit Court of Appeals dismissed Starr's appeal "as Frivolous" on June 18, 2002.

The United States District Court dismissed Starr's complaint "With Prejudice" On August 1, 2001.

On August 22, 2002 Starr filed Notice of an Appeal.

And on September 13, 2002 Starr filed a petition for writ of Certiorari with the Supreme Court of the United States.

The Supreme Court has given Starr until November 16, 2002 to file the Petition for Writ of Certiorari.

This Petition has been timely filed.

JURISDICTION

The court has jurisdiction of the case pursuant to 28 U.S.C. SS 1254.

CONSTITUTIONAL PROVISIONS

The First Amendment to the United States constitution."Congress shall make no law prohibiting the right of the people to petition the government for a redress of grievance".

14th Amendment-under the equal protection of the laws. A Constitutional guarantee that no person shall be denied the same protection of the laws.

A Supreme Court Case- City of Lakewood V. Plain Dealer Publishing Company, 486 U.S. _____; 100 L. Ed. 2d 771; 108 S. Ct. 2138 (1988).,

Cases have long held that when a Statue allegedly vests unbridled discretion in a government official over whether to permit or deny expressive activity, one who is subject to the law may challenge it facially without the necessity of first applying for, and being denied.

A statue placing unbridled discretion in the hands of a government official or agency constitutes a prior restraint and may result in Censorship. The entire regulatory scheme permits a facial challenge. City of Lakewood V. Plain Dealer Publishing Company, 486 U.S.__:100L. Ed. 2d 771;108 S.Ct 2138 (1988).

STATEMENT OF THE CASE

On April 7, 2000, "Starr" filed suit in the United States District Court, Hattiesburg, Mississippi, against City of Hattiesburg for discrimination, harassment, wrongful prosecution, fraud and false arrest, under the equal protection clause of the 14th Amendment.

This complaint was filed against the City of Hattiesburg because of a fraudulent complaint and citation that was issued to "Starr" on May 24, 1999, by Alvin Eaton, code inspector for the City of Hattiesburg.

This fraudulent complaint and citation stated "Starr" had two abandoned vehicles on "Starr's" private property.

Alvin Eaton criminally trespassed on "Starr's" property and issued "Starr" the fraudulent complaint and citation.

Subsequent to the fraudulent complaint and citation "Starr" was wrongfully prosecuted and convicted of having an abandoned vehicle on "Starr's" private property. "Starr" was then fraudulent fined in an amount which exceeded the limit of the fine.

On September 27, 1999, "Starr" filed an appeal Denovo with the Forrest County Circuit Clerk's office. "Starr's" appeal was blocked by "Hattiesburg".

"Starr" then went to the City counsel meeting on September 21, 1999, at 4:00P.M., to file a grievance in person. Starr spoke to the "City of Hattiesburg" counsel but they ignored Starr's grievance, they were complacent.

Then because "Starr" refused to pay the fraudulent fine, "Starr" was issued a fine due notification, if "Starr" did not pay the fraudulent fine that "Starr" was going to be arrested and "Starr's" license would be taken away.

"Starr" then called the chief of police and ask for a meeting, which was granted, to discuss this case and "Starr" ask the chief to look into this case and have the record changed because "Starr" violated no law.

No word from any one, "Starr"then called the Forrest County District Attorney and ask him to look into this case and have the record corrected before Starr was arrested.

Still no word from anyone, on April 7, 2000, "Starr" filed this case in United States District Court, Hattiesburg, Mississippi.

On April 10, 2000, "Starr" was arrested at "Starr's" home and put in maximum security at the Forrest County Jail. During the arrest "Starr" was assaulted by one of the police officers. "Starr" was hit in the back of the head.

"Starr" was not told what "Starr" was being arrested for and "Starr" was not told of her rights. After questioning the arresting officer on the way to jail, "Starr" was told by the arresting officer, he did not have an arrest warrant because he was arresting "Starr" on a Mittimus warrant and he did not need one. If "Starr" payed the fraudulent fine of $585.00 "Starr" would be released from jail.

The City of Hattiesburg never answered the complaint filed in Federal Court.

Then the City of Hattiesburg fabricated evidence saying that other people were issued these fraudulent citations and complaints but they failed to provide any other citation and complaint that was issued.

They fabricated this evidence in order to have support for their Summary Judgement dismissal with prejudice.

Judge Charles W. Pickering on August 1, 2001, dismissed Starr's complaint "with Prejudice" based on the City of Hattiesburg's fabricated evidence.

"Starr's rights were violated by Judge Pickering and the Fifth circuit court of Appeals, and this case should be reversed and "Starr's" Motion for a Judge by default should be granted.

According to the case Hicks V. Thomas, which is Mississippi settled law. (1987, Miss) 516 So 2d 1344, 6 USCCRS 2d 105. Truck sitting in yard failed to fit any description of an abandoned vehicle under statue (law).

REASONS FOR GRANTING WRIT

I. There is fraud on the court. This is a very important constitutional question concerning the First Amendment to the United States Constitution,which requires an Opinion by the Supreme Court in order to have settled law.

II. Starr's rights were violated by Judge Pickering and the Fifth Circuit Court of Appeals when they dismissed Starr's complaint "with prejudice" and "as frivolous", they violated the First Amendment and a Supreme Court Opinion in the case, City of Lakewood V. Plain Dealer Publishing Co. And they violated the 14th Amendment, the equal protection of the law, which is a constitutional guarantee that no person shall be denied the same protections of the law.

Catherine M. Starr

Respectfully submitted,

Catherine M. Starr
121 Melwood Drive
Hattiesburg, Mississippi
39401
Tel. (601) 544-8316
Pro se Counsel of Record
For Petitioner

APP.1

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 01-60742

CATHERINE M. STARR,

Plaintiff-Appellant

versus

City of Hattiesburg;Alvin Eaton;Jefferson B. Stewart,

Defendants-Appellees.

.....

Appeal from the United States District Court
for the Southern District of Mississippi
USDC NO. 2:00-CV-97-PG

.....

ON PETITION FOR REHEARING

Before Higginbotham, Davis, and Emilio M. Garza, Circuit Judges.

It is Ordered that the motion to Supplement the petition for rehearing is Granted; the petition for rehearing is DENIED.

FOR THE COURT:

DAVIS

UNITED STATES CIRCUIT JUDGE

APP. 2

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60742
Conference Calendar

D. C. Docket No. 2:00-CV-97

CATHERINE M. STARR

Plaintiff-Appellant

V.

City of Hattiesburg;Alvin Eaton; Jefferson B. Stewart

Defendants-Appellees

Appeal from the United States District Court for the Southern District of Mississippi, Hattiesburg.

Before Higginbotham, Davis, and Emilio M. Garza, Circuit Judges.

JUDGMENT

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the appeal is dismissed as frivolous.

It is further oredered that plaintiff-appellant pay to defendants-appellees the costs on appeal to be taxed by the clerk of this court.

ISSUED AS MANDATE Aug. 22

a true copy
Clerk, U.S. Court of Appeals
Fifth Circuit
By_____
Deputy
New Orleans, Louisiana
Aug. 22, 2002

APP. 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

CATHERINE M. STARR

PLAINTIFF

VERSUS

CITY OF HATTIESBURG,
ALVIN EATON AND
JEFFERSON B. STEWART

DEFENDANTS

JUDGMENT

This matter is before the Court on Motion for SUMMARY JUDGEMENT filed on behalf of the Defendants. The Court having entered a separate Memorandum Opinion and Order granting the summary judgement, IT IS, THEREFORE, ORDERED AND ADJUDGED

That the Motion for Summary Judgement is granted and the Plaintiff's Complaint is dismissed with prejudice as to all Defendants.

IT IS FURTHER ORDERED AND ADJUDGED that all other pending motions are moot and are therefore dismissed.

SO ORDERED AND ADJUDGED, this the _____day of August, 2001.

CHARLES W. PICKERING, SR.
UNITED STATES DISTRICT JUDGE

APP. 4

SUMMARY OF ARGUMENT

The Summary of Argument in "Starr's" brief to the Fifth Circuit Court of Appeals, page 35, case no. 01-60742.

Judge Pickering is not only bias and prejudice toward "Starr" but he has incorporated the evidence of City of Hattiesburg's fraud, perjury and obstruction of justice into his summary judgement dismissal "with prejudice"..

He abused his discretion in granting the Defendants Summary Judgement, under Rule 56. Summary Judgement under Rule 56 was omitted and never reserved in the City of Hattiesburg's Motion to quash service of Process and Dismiss Complaint, filed on May 10, 2000 and in their answer and defenses of City of Hattiesburg's to complaint and all amendments thereto, filed on October 24, 2000.

Moreover, if the City of Hattiesburg moves the court before answering the complaint, he is barred from making a further motion presenting the defenses.

The City of Hattiesburg have waived all their defenses and rights to a trial by jury and waived their right to summary judgement, under Rule 56.

Therefore, and because there is fraud on the court, the judgement should be ruled void and a new judgement entered. And the new judgement should be a judgement by default for the relief demanded in the complaint, against the City of Hattiesburg in favor of "Starr" for the relief demanded in the complaint.

ARGUMENT

The Argument, (Starr's brief, page 36, 37, 38., Case No. 01-60742).

The City of Hattiesburg failed to answer the complaint and City of Hattiesburg failed to provide all discovery and waived all their rights.

Summary Judgement must be supported by evidence. The City of Hattiesburg had no evidence. All they had is what was fabricated in order to get a favorable dismissal.

When the City of Hattiesburg moved to dismiss complaint before answering the complaint, they waived their right to any defenses, pleadings, depositions, affidavits.

Moreover, the City of Hattiesburg omitted and did not reserve any of the defenses available to them on May 10, 2000. And did not reserve and omitted the defenses of Summary Judgement in their answer and

defenses of Hattiesburg to complaint and all amendments thereto, filed on October 24, 2000 and on May 10, 2000.

The City of Hattiesburg waived all their defenses and rights.

Judge Pickering embraced the City of Hattiesburg's fraud, perjury and obstruction of justice and incorporated it into a Summary Judgement dismissal with prejudice.

CERTIFICATE OF SERVICE

CASE NO. _____

IN THE UNITED STATES SUPREME COURT

Catherine M. Starr-Petitioner/Appellant/
Plaintiff

VS.

City of Hattiesburg-Appellees/Defendants
Alvin Eaton
Jefferson B. Stewart

I, Catherine M. Starr, hereby certify that a true and correct copy was this 21ST day of October 2002, Mailed to counsel of record.

Attorney Jerry Evans
723 Hardy Street
P. O. Box 1230
Hattiesburg, Mississippi 39401-1230

BY: Catherine M. Starr

Catherine M. Starr Pro se
Petitioner/Appellant/Plaintiff
121 Melwood Drive
Hattiesburg, Mississippi 39401
(601) 544-8316